



State of Washington
Department of Revenue

Excise Tax Advisory

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SALE OF PHOTOGRAPHS TO SCHOOL CHILDREN

Issued August 5, 1966

Is a photographer who uses the schools as agent to collect the price of prints from school children liable as a seller for the Retail Sales Tax on the selling price of the prints?

The taxpayer, a photographer, was assessed a Retail Sales Tax upon the gross proceeds from sales of photographs of school children. The taxpayer had no studio or shop for the processing of film or prints but had made arrangements with an eastern firm to process films taken by him. The photographer paid a flat fee to the film processor and arranged for the prints to be sent directly to the schools involved by the processor after processing. The school principals then distributed the prints to the children. After receiving payment, the principals deducted the school's commission and forwarded the balance and unclaimed prints to the taxpayer. The taxpayer reported his gross receipts under the "Wholesaling" classification on the assumption that the schools involved were the retailers of the prints. No one, however, collected the Retail Sales Tax on the print sales.

The Tax Commission held that the taxpayer was making retail sales of photographs to school children, rather than wholesale sales to the schools with the schools retailing to the children. Since the only business risk with respect to the photograph sales was borne by the taxpayer, the Commission concluded that the schools were merely agents of the taxpayer for the collection of the selling price of the prints. Therefore, the gross amounts paid by the school children were subject to the Retail Sales Tax which the taxpayer-photographer must collect as a seller under RCW 82.08.050. The Retail Sales Tax applied to the gross charges without a deduction for any amounts paid to the schools or others as fees or commissions.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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